

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

DONNA CRYSTLE RHODES,

Plaintiff,

v.

**Civil Action No. 3:09-CV-48
(Judge Bailey)**

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Doc. 24] dated March 24, 2010, to which neither party filed objections. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the District Court to review the recommendation under the standards that the District Court believes are appropriate, and under these circumstances, the parties' right to *de novo* review is waived. See **Webb v. Califano**, 468 F. Supp. 825 (E.D. Cal. 1979). The docket reflects service was accepted on March 24, 2010. To date, no objections have been filed.

Accordingly, because no objections have been filed, this report and recommendation ("R & R") will be reviewed for clear error. Upon review of the R & R and the record, it is the opinion of this Court that the Magistrate Judge's Report and Recommendation [**Doc. 24**] should be, and is, hereby **ORDERED ADOPTED**.

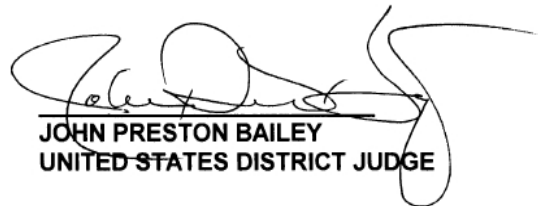
For reasons more fully stated in the Report and Recommendation of United States

Magistrate Judge James E. Seibert [Doc. 24], this Court is of the opinion that Claimant's Motion for Summary Judgment [**Doc. 18**] should be, and the same is, hereby **DENIED** because substantial evidence supports the ALJ's decision that Claimant did not suffer from a Listing impairment, the ALJ correctly evaluated Claimant's credibility, and the ALJ correctly evaluated Claimant's alcohol use. For these same reasons, the Commissioner's Motion for Summary Judgment [**Doc. 22**] is hereby **GRANTED**. Accordingly, this case is **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to all counsel of record.

DATED: April 13 , 2010.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE